IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL
WRIT PETITION NO: 1447 OF 2004 (S/S)

Dr. (Smt.) Bharti Narayan Bhatt W/o Narayan Dutt, at present Lecturer (Sanskrit) G.G.I.C. Bhimtal, Nainital (Uttaranchal)

-----Petitioner

Versus

1- State of Uttaranchal through Secretary, Department of Secondary Education, Govt. of Uttaranchal, Dehradun.
2- Director of Education, Uttaranchal Government, Dehradun.
3- Director of Education, U.P. Govt. Allahabad.
4- Additional Director of Education Uttaranchal Government, Dehradun.
5- Joint Director of Education, Kumaon Region, Nainital.
6- Principal, G.G.I.C. Bhimtal, Nainital.

-----Respondents

Sri Narayan Datt, Advo, learned counsel for petitioner.
Learned Standing Counsel for respondents.

Dated : March 6, 2006.
HON'BLE RAJESH TANDON, J.

Heard Sri Narayan Datt, counsel for petitioner and Standing Counsel for respondents.

By the present writ petition the petitioner has prayed for a writ of mandamus directing the respondents to fix the seniority of the petitioner from the date the merit list of 1994. Further prayer has been made in the nature of mandamus commanding the respondents to grant all consequential benefits from the due date.

Briefly stated, the petitioner was serving in the Institution G.G.I.C. Bhimtal as a Lecturer in Sanskrit and she was appointed on 31-8-1998. However, she filed a writ petition before the Allahabad High Court being writ petition no. 285549 of 1996 seeking a mandamus for appointment of Lecturer in Sanskrit. The matter was heard and after exchange of the pleadings, the Allahabad High Court has passed the following order.

"It is accordingly directed that Bharti Pandey be deemed selected in the interview and she be posted in one of the posts advertised for as Lecturer in Sanskrit. If, however, in the meantime all the posts have been filled in, in, an extra numeraly post be created and Km. Bharti be appointed against that post with all benefits concerning her seniority from the date the merit list was acted upon."

After the aforesaid order was passed since the seniority and all benefits were not given to the petitioner. On 14-12-2004 this Court has directed to decide the representation dated 27-10-2004 filed by the petitioner. In the light of the order passed by this court dated 14-12-2004 it appears that the

representation of the petitioner has been decided on 31-12-2005 where following order has been passed:

"izdkf'kr foKfIr 1994 ds vk/kkj ij vU; vkosndksa dk p;u gksus ds QyLo:i mUgsa oiZ 1995 esa fuxZr p;u lwph ds vk/kkj ij lsok;ksftr fd;k tk pqdk FkkA ysfdu Jherh Hkkjrh ukjk;.k HkVV dk p;u u gksus ij muds }kjk ek0mPp U;k;ky; esa ;kfpdk ;ksftr dh x;hA mDr ;kfpdk esa ikfjr vkns'k ds vuqdze esas gh mUgsa izdkf'kr foKfIr 1994 ds inksa ds lkis{k gh fu;qfDr iznku dh x;h gSA vr,o Jherh Hkkjrh ukjk;.k HkVV dk dFku fd mUgs oiZ 1995 ls ofjIBrk iznku fd;k tk;s] Lohdkj fd;s tkus ;ksX; gS] ysfdu vU; mudh ekWx Consequential benefits fn;k tkuk vkSfpR; ghu ,oa U;k; laxr ugha gS Jherh HkVV }kjk bl lEcU/k esa dksbZ ,sls lk{; ,oa vfHkys[k izLrqr ugh fd;k ftuds vk/kkj ij mUgs Consequential benefits iznku fd;k tk ldrk gSA"

The petitioner has been deprived of the Consequential benefits. However, her seniority was fixed from the year 1996 for which the petitioner has no grievance although she has claimed her seniority from 1994 but the seniority having been given since 1996 and therefore the petitioner has no grievance with regard to prayer no.1. All of them having been given seniority right from 1996 and, therefore, prayer

no.1 to that effect has not been pressed by the petitioner.

However, the petitioner has only pressed for prayer no.2 regarding all Consequential benefits from the date of merit list. A perusal of the order passed by this court shows that all the benefits concerning her seniority from the date of the merit list shall be given to the petitioner. It is well known that the benefits concerning his seniority is a word which includes all Consequential benefits accrued to the petitioner from time to time and the petitioner can not be deprived of the legitimate benefits accrued from the date when her seniority has been fixed according to the merit list. The petitioner, therefore, can not be deprived of the Consequential benefits accrued to her from 1996 in accordance with the judgment passed by the Allahabad High Court vide order dated 12-12-97 as well as even from the order passed by the Additional Director Education, respondent no.4 on 31-12-2005.

The grievance of the petitioner is that although the Additional Director Education has fixed

the seniority since 1996, he can not be deprived of the selection grade as well pay fixation since the year 1996 so far as extension of the Consequential benefits in favour of the petitioner is concerned, the order dated 31.12.2005 is quashed. The petitioner shall be entitled for all Consequential benefits.

A writ of mandamus is issued directing the respondents to grant all the Consequential benefits to the petitioner from 1996 within a period of four weeks from the date of filling the certified of the order.

A writ of certiorari is issued quashing the order dated 31.12.2005. A writ of mandamus is issued directing the respondents to pay all the consequential benefits in accordance with the observations made above.

In view of the aforesaid observation, the writ petitioner is partly allowed. No order as to costs.

(Rajesh Tandon, J)

06.03.2006.
Negi.